



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Consideration of Urgency Ordinance Amending Lodi Municipal Code Chapter 15.64 - "Development Impact Mitigation Fees".

MEETING DATE: October 16, 1991

PREPARED BY: City Attorney

RECOMMENDED ACTION: Council consideration of of adoption of an urgency ordinance amending Lodi Municipal Code Chapter 15.64 - "Development Impact Mitigation Fees".

BACKGROUND INFORMATION: As directed by the City Council at its special meeting of October 3, 1991, attached is an urgency ordinance amending Ordinance 1518, the recently-adopted development fee plan. This action was necessary to clear up some ambiguities and misunderstandings on how the new fees would apply to land in the City which already had some type of development approval, but for which no building permit had been obtained.

This amendment, if adopted, would exempt parcels which had already been subdivided or approved for development and for which the fees in existence at the time of approval (usually just the Master Storm Drain Fees) had already been paid.

It should be noted that in some cases, land might still be subject to an incremental fee where the proposed use is allowable under the General Plan but still more intensive than the land use assumptions built into the fee ordinance. For example, land zoned and approved for industrial use, and for which the Master Storm Drain Fees had already been paid could, consistent with our zoning laws, be used for commercial purposes. This might mean heavier traffic and more demand for sewer or water than an industrial use. Obviously, it would be fair that such uses pay the incremental increase.

It is also recommended that this ordinance, if desired, should be adopted as an urgency measure so that it becomes effective on the same date as the rest of the new fee statutes. Otherwise, there would be a short "window" in which fees would be different between the time Ordinance 1518 becomes effective (November 5, 1991) and the effective date of the proposed amendments. The findings necessary to justify such an urgency adoption have been included in the attached draft.


APPROVED: _____

THOMAS A. PETERSON


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Consideration of Ordinance
Amending LMC Chapter 15.64
October 16, 1991
Page Two

FUNDING: None required.



Bob McNatt
City Attorney

BM/vc

ORDDIMF.CC/TXTA.01V

ORDINANCE NO. 1526

AN URGENCY ORDINANCE OF THE LODI CITY COUNCIL
AMENDING LODI MUNICIPAL CODE CHAPTER 15.64 -
"DEVELOPMENT IMPACT MITIGATION FEES"

=====

BE IT ORDAINED BY THE LODI CITY COUNCIL AS FOLLOWS:

SECTION 1. Lodi Municipal Code Chapter 15.64 is hereby amended by adding a new subsection G to Section 15.64.010 as follows:

15.64.010 Findings and Purpose.

"G. The City has previously approved various development projects which have made significant financial expenditures towards completion, including the payment of the then current development impact mitigation fees; but have not obtained a building permit. The City Council finds and declares that such projects should be allowed to proceed without the imposition of new development impact mitigation fees imposed under this chapter."

SECTION 2. Lodi Municipal Code Section 15.64.040(D) is hereby amended to read as follows:

"If a final subdivision map has been obtained before the effective date of this ordinance, then the fees shall be paid before issuance of a building permit or grading permit, whichever comes first, except as exempted under Section 15.64.110 of this chapter."

SECTION 3. Lodi Municipal Code Chapter **15.64** is hereby amended by adding a ~~new~~ subsection E to Section **15.64.110** as follows:

15.64.110 Fee Exemptions.

"E. Additional exemption for development projects in progress:

1. A project on a parcel (or portion of a parcel) which has, on the effective date this ordinance, received the appropriate development approval, but has not obtained a building permit and has paid appropriate mitigation fees under Resolution **3618** or Ordinance **1440**, shall be exempt from imposition **of** the development impact mitigation fees imposed under this chapter except the Sewer Lift Station area Fees.

2. For purposes of this subsection, "appropriate development approval" shall include:

- an approved or conditionally approved tentative map;
- an approved final subdivision or parcel map;
- an approved use permit when no map was required;
- an approved public improvement agreement.

3. The exemption under this subsection shall not apply to changes in land use, pursuant to subsection (D) for Storm Drainage Impact Fees.

4. The exemption under this subsection shall apply on projects which include a change in land use to a more intensive use **as**

defined in this chapter only to the extent that the previously approved land use shall be considered an existing use and the project shall be charged the appropriate incremental increase as provided in this chapter and the fee resolution.

SECTION 4. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 5. Findings.

The Lodi City Council hereby finds and declares that it is appropriate to adopt this ordinance as an urgency measure in order to protect the public health, safety or welfare. This finding is based on the following facts:

1. Ordinance 1518 which this ordinance amends is scheduled to become effective on November 5, 1991.
2. If this ordinance is not adopted as an urgency ordinance, project applications filed between November 5, 1991 and the effective date of this ordinance would pay one set of fees and those filed afterwards another amount.
3. This situation would materially interfere with the City's ability to plan, construct and pay for the public improvements described in this chapter.

SECTION 6. The public health, safety or welfare require that this ordinance be adopted as an urgency measure.

SECTION 7. This urgency ordinance shall be published one time in the "Lodi News Sentinel", a daily newspaper of general circulation printed and published in the City of Lodi and shall be in force and take effect on November 5, 1991.

Approved this 16th day of October 1991

DAVID M. HINCHMAN
MAYOR

Attest:

ALICE M. REIMCHE
City Clerk

State of California
County of San Joaquin, ss.

I, Alice M. Reimche, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1526 was adopted as an urgency ordinance at a regular meeting of the City Council of the City of Lodi held October 16, 1991 and was thereafter passed, adopted and ordered to print by the following vote:

Ayes : **Council Members -**

Noes : **Council Members -**

Absent: **Council Members -**

Abstain : **Council Members -**

I further certify that Ordinance No. 1526 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

**ALICE M. REIMCHE
City Clerk**

Approved as to Form

**BOBBY W. McNATT
City Attorney**

ORD1526/TXTA .01V



CITY OF LODI

CARNEGIE FORUM
305 West Pine Street, Lodi

ICE OF PUBLIC HEARING

Date: October 16, 1991

Time: 7:30 p.m.

For information regarding this Public Hearing
Please Contact:

Alice M. Reimche
City Clerk
Telephone: 333-6702

NOTICE OF PUBLIC HEARING

October 16, 1991

NOTICE IS HEREBY GIVEN that on Wednesday, at the hour of 7:30 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a public hearing to consider the following matter:

- a) to consider adopting as an urgency ordinance an amendment to Lodi's Development Fee Ordinance to modify the definition of projects subject to new development fees.

All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk at any time prior to the hearing scheduled herein, and oral statements may be made at said hearing.

If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the Public Hearing described in this notice or in written correspondence delivered to the City Clerk, 221 West Pine Street, at or prior to the Public Hearing.

By Order Of the Lodi City Council:

Alice M. Reimche
Alice M. Reimche
City Clerk

Dated: October 3, 1991

Approved as to form:

Bobby W. McNatt
Bobby W. McNatt
City Attorney